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OFFICE OF PETITIONS

In re Application of :
Frank et al. :
Application No. 09/750,130 : DECISION GRANTING PETITION
Filed: 29 December, 2000 :
Attorney Docket No. BS00-427 :

This is a decision on the petition filed on 18 June, 2001, requesting that the above-identified application, including 223 sheets of drawings, be accorded a filing date of 29 December, 2000.

On 29 December, 2000, the application was filed.

On 25 May, 2001, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because it was deposited without drawings.

In response, on 18 June, 2001, the present petition was filed, accompanied by, *inter alia*, 223 sheets of drawings. Petitioners argue that the missing drawings were filed with the other application papers on 29 December, 2000, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied on 18 June, 2001. The postcard receipt shows an Office date stamp of 29 December, 2000, and acknowledges receipt of, *inter alia*, 223 sheets of drawings. Petitioners request that the application be accorded a filing date of 29 December, 2000.

A review of the record reveals that no sheets of drawings are located among the application papers deposited on 29 December, 2000. However, the evidence is convincing that 223 sheets of drawings were filed on 29 December, 2000, but subsequently misplaced in the Office.

The "Notice of Incomplete Application" mailed on 25 May, 2001, was sent in error and is hereby vacated to the extent that it

states that the drawings are missing. The requirement for an executed oath or declaration has not been vacated.

In view of the above, the petition is granted. The petition fee of \$130.00 will be refunded to counsel's deposit account.

The application is being returned to Initial Patent Examination Division for reprocessing with a filing date of 29 December, 2000, using the application papers filed on 29 December, 2000, and the 223 sheets of drawings supplied on 18 June, 2001, and for an indication on the bib-data sheet that 223 sheets of drawings were present on filing.

Telephone inquiries should be directed to Petitions Attorney Douglas I. Wood at 703.308.6918.



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for Patent Examination Policy